

The Office makes every effort to provide applicants with the application numbers for newly filed patent applications as soon as possible. It is suggested, however, that an assignment be written to allow entry of the identifying number after the execution of the assignment. An example of acceptable wording is:

"I hereby authorize and request my attorney, (Insert name), of (Insert address), to insert here in parentheses (Application number , filed ) the filing date and application number of said application when known."

Inspection of the "Assignment of Application" filed on 03 June 2005 reveals that said assignment does "identify the patent application by the name of each inventor," but that it does not identify the application by the title. Rather, the space for the title has been left blank. 37 CFR 3.21 does not provide for this defect to be overcome by the provision of an identifying number (e.g., docket number) in place of the title. In view of 37 CFR 3.21 and MPEP 302.03, it therefore would not be appropriate to accept the "Assignment of Application" filed on 03 June 2005 for purposes of establishing the ownership of the application by BASF Plant Science GmbH in order to take action in the application pursuant to 37 CFR 3.73(b).

Petitioner observes that the "Assignment of Application" was recorded in the USPTO on 24 January 2005 at Reel/Frame No. 016749/0176. However, the reel and frame information was not furnished on the 37 CFR 3.73(b) statement filed on 03 June 2005; rather, the location provided for this information to be recorded on the form was left blank. Since the 37 CFR 3.73(b) statement neither referred to the reel/frame number where the assignment was recorded nor was accompanied by a copy of an assignment properly identifying the application to which it was directed, the submission of 03 June 2005 was not effective in changing the correspondence address of record. Consequently, the Notification To Comply... (Form PCT/DO/EO/922) mailed on 01 July 2005 was properly addressed to previous counsel of record. Accordingly, it would not be appropriate to withdraw the holding of abandonment on the basis of the present record.

*Petition Under 37 CFR 1.137(b)*

As noted *supra*, the previous petition under 37 CFR 1.137(b) was not accompanied by the required reply (in the form of a substitute computer readable form (CRF) of the sequence listing and a statement that the content of the CRF is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter had not been filed. Review of the record reveals that an acceptable CRF was entered into the USPTO database on 12 December 2006, and that the 20 November 2006 submission further included statements that the content of the CRF is identical to the written (on paper or compact disc) sequence listing and includes no new matter. As such, the requirements of 37 CFR 1.137(b) have now been satisfied.

It is noted that the declaration of the inventors filed on 24 January 2005 is defective in that it includes an un-initialed alteration. Specifically, the date of Mr. Kogel's signature has been covered and re-entered, without the alteration being initialed by Mr. Kogel.